IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

Thursday, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 10993 of 2004

Between:

Polamaresetti Venkata Appa Rao, S/o.Suryanarayana Rao,
R/o.D.No.18-10-34, Gavarapalem, Anakapally,Visakhapatnam Dist.

..... PETITIONER

AND

1 The Inspector of police, Chodavaram circle Police Station,
Visakhapatnam District
2 The Inspector of police, Narsipatnam circle police station,
Visakhapatnam District
3 The Inspector of police, Kothakota Circle police station,

Visakhapatnam District.
4 The Inspector of police,Yellamanchili Circle police station,

Visakhapatnam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus declaring the action of the respondents in interfering with the business of the petitioner who is doing legally under the name and style of Gemini Drinks as arbitrary, illegal and in violation of Article 19 (1) (g) and 21 of the constitution of India and consequently direct the respondents not to interfere with the business of the petitioner under the name and style of Gemini Drinks.

Counsel for the Petitioner: MR.M.KESAVA RAO

Counsel for the Respondents: GP FOR HOME

The Court at the admission stasge made the following :

ORDER:

The petitioner seeks Writ of Mandamus declaring the alleged action of the respondents in interfering with the business of the petitioner under the name and style of 'Gemini Drinks' as arbitrary and illegal.

The petitioner states that he along with his brother Polamarasetti Venkataramana were carrying on the business under the name and style of 'Gemini Drinks Company' which is a registered partnership concern. It is further stated that initially one Konthala Srinivas Rao and three other partners and the petitioner entered into a partnership deed on 11-07-1997 for manufacturing and sale of soft drinks. Subsequently under the deed of retirement dated 23-02-2000, the other four partners have retired from the partnership and under a separate partnership deed dated 31-03-2000, the petitioner and his brother P Venkataramana and two other partners by name Sri Dadi Adisiva Nookaraju and S Srinivasa Rao, were admitted as partners. It is alleged that the said Dadi Adisiva Nookaraju with a *mala fide* intention in collusion with other partner S Srinivasrao, who happened to be his brother-in-law, made an application before the Assistant Commercial Tax Officer for cancellation of A.P.G.S.T. and C.S.T. certificate, about which the petitioner made a representation for restoration. The petitioner also filed W.P.No.24492 of 2002, which was subsequently closed on 23-04-2003 as not pressed, since the petitioner was granted registration certificate by the Assistant Commercial Tax Officer in the name of 'Gemini Drinks Company'. It is further stated that the dispute between Dadi Adisiva Nookaraju and the petitioner are still continuing. The said Dadi Adisva Nookaraju made a complaint on 22-07-2003 against the petitioner and other partners alleging that they are using the name of the firm and selling soft drinks which are harmful to

the health to public and thus cheating innocent public. On the basis of the said complaint, a case in Cr.No.16/04 was registered against the petitioner under Sections 420 and 217 of I.P.C. During the course of the said investigation, police seized the auto bearing No.AP 31 U 7926 on 28-02-2004. Ultimately, the police referred the case as mistake of fact and submitted a final report on 15-03-2004 before the concerned Magistrate and requested to release the auto and accordingly, the auto was released and handed over to the petitioner. However, police continued harassing the petitioner and have been interfering with his business and the auto bearing No. AP 31 U 7926 was again detained without any authority. The petitioner states that the dispute between him and other partners is a civil dispute and the police have no right to interfere with the said dispute and the highhanded action of the respondents is arbitrary and illegal. Hence, this Writ Petition.

This Court while ordering notice before Admission on 01-07-2004 directed the respondents not to interfere with the business in the absence of any case registered against him. There was also further direction to release the vehicle bearing No.AP 31 U 7926 forthwith, if it is not seized in connection with any case registered against its owner.

When the matter is taken up for consideration, the learned counsel for the petitioner states that in pursuance of the stay order of this Court, vehicle has already released. Learned Government Pleader states that the allegation of the petitioner that the police have been interfering with his business is not correct. In the counter-affidavit filed by 1st respondent-Inspector of Police, Chodavaram stated that basing on the complaint made by one Dadi Adisiva Nookaraju on 27-02-2004, a case in Cr.No.16 of 2004 under Sections 420, 273 of IPC was registered on the file of Chodavaram PS against the brother of the petitioner and 4 others including the petitioner. During the course of investigation, the said auto was seized, but subsequently, the seized property was released in favour of the petitioner on 16-03-2004 in pursuance of the orders in Crl.M.P.No.557 of 2004. Subsequently, after completion of the investigation, final report was filed on 10-03-2004 referring the case as mistake of fact. It is further stated that subsequently on 18-06-2004 another complaint was made by Dadi Adisiva Nookaraju alleging that the petitioner and 4 others have been carrying on their business by procuring ‘Siva drinks’ empty bottles and transporting their drinks in the said bottles through the auto bearing No.AP 31 U 7926. In pursuance of the said complaint, entry was made in the complaint register of

Chodavaram PS vide Sl.No.78/04. For the purpose of enquiry into the said complaint, the above said auto was stopped, checked and found the allegation of the complainant as false and baseless. The further allegation of the petitioner as to harassment and interfering with the business, has also been specifically denied and it is stated that the vehicle bearing No.AP 31 U 7926 was not seized or detained by them as alleged by the petitioner and there is absolutely no truth in any one of the allegations of the petitioner and therefore, there is no cause of action for the petitioner to file the Writ Petition.

From the averments in the counter-affidavit, it is clear that as on today, there is no case registered against the petitioner in connection with any offence. The respondents have also stated that the vehicle was not seized and that the allegations of the petitioner are not correct.

In the circumstances, the Writ Petition is disposed of recording the statement of first respondent that no crime is registered against the petitioner, in connection with any offence and with a direction to the respondents not to interfere with the business of the petitioner in the absence of any case registered against him. There shall be no order as to costs.

22nd JULY 2004

bss/gbs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Inspector of police, Chodavaram circle Police Station,
Visakhapatnam District
2 The Inspector of police, Narsipatnam circle police station,
Visakhapatnam District
3 The Inspector of police, Kothakota Circle police station,

Visakhapatnam District.
4 The Inspector of police,Yellamanchili Circle police station,

Visakhapatnam District

5.2CCs to G.P. for Home, High Court Buildings, Hyderabad (OUT)

6.2CD copies